

### REMARKS

This responds to the Office Action mailed on August 3, 2007.

Claims 1, 4, 5, 13-15, 20, 26 and 28 are amended, one new claim 29 has been added. As a result, claims 1-29 are now pending in this application. New claim 29 is supported by, *inter alia*, Fig. 3 and the description thereof (e.g., ¶¶24-30). Support for the claim amendments may be found, *inter alia*, as set out below:

Amendments to claim 1 find support in the original application at ¶22.

Amendments to claim 4 find support in the original application at ¶44.

Amendments to claim 5 find support in the original application at ¶22.

Amendments to claim 13 find support in the original application at ¶32.

Amendments to claim 14 find support in the original application at ¶30.

Amendments to claim 15 find support in the original application at ¶¶17-19; 35-37;

Original Fig. 5.

Amendments to claim 20 find support in the original application at ¶¶17-19.

Amendments to claim 26 find support in the original application at ¶¶17-19.

Amendments to claim 28 find support in the original application at ¶¶17-19.

### Interview Summary

On November 19, 2007, Applicants' undersigned representative telephoned Examiner Smith to discuss proposed claim language and arguments in light of the most recent Office Action. Examiner Smith stated, *inter alia*, that an additional search would need to be performed to determine the patentability of the claimed technology. Further, Examiner Smith stated that he would speak with his Supervising Patent Examiner (SPE) to determine whether a follow up conversation would be possible after the filing of the present Office Action Response. No agreement was reached as to the allowability of the claims.

§102 Rejection of the Claims

Claims 15-17 were rejected under 35 U.S.C. § 102(e) for anticipation by Corlett et al. (U.S. Published Patent Application No. 2003/023710 A1). Applicants amend so as to clarify the claims. Corlett et al. depict

the alarm capability of the network metric system 10 offer a tangible method of dealing with Service Level Agreements (SLA) compliance. Through the use of several levels of alarm severity, set to trigger at thresholds progressively closer to the violation of a SLA, a Service Provider may proactively manage their service level agreements for exactly the conditions that cause non-compliance (e.g., delay or outages).

(emphasis added) (Corlett et al., ¶ 212.) By contrast, amended claim 15 recites a method for “determining whether the measured performance parameter meets the minimum standard as set by the QoS policy.” Corlett et al. is silent as to the use of a minimum standard. Further, amended claim 15 recites “performing active testing if the minimum standard has not been met.” Corlett et al. is silent as to the use of active testing if the minimum standard has not been met.

As shown above, Corlett et al. do not teach all the limitations of amended claim 15. Accordingly, Applicants submit that amended claim 15 is allowable. As claims 16-17 depend upon amended claim 15, claims 16-17 are also allowable.

Claims 20, 21, and 23 were rejected under 35 U.S.C. § 102(e) for anticipation by Liu et al. (U.S. Published Patent Application No. 2004/0073817 A1). Applicants amend so as to clarify the claims. Liu et al. depict a “Method for automatically saving in-process programs before shutdown.” (Liu et al., title.) In contrast, amended claim 20 recites:

monitoring a VoIP system, the VoIP system including a console connected to a control unit, the control unit connected to an Internet Protocol-Private Branch Exchange (IP-PBX) with an ethernet connection and an asynchronous connection, the method;

Liu et al. is silent as to the use of an IP-PBX with an ethernet connection and an asynchronous connection.

As shown above, Liu et al. do not teach all the limitations of amended claim 20. Accordingly, Applicants submit that amended claim 20 is allowable. As claims 21 and 23 are dependent upon amended claim 20, claims 21 and 23 is also allowable.

In view of the above, Applicants thus respectfully request that the Examiner withdraw these rejections, and issue a notice of allowance at his earliest convenience.

§103 Rejection of the Claims

Claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. (U.S. Patent No. 7,142,512 B1) in view of Chen et al. (U.S. Patent No. 6,870,835 B1). Applicants amend so as to clarify the claims. Further, Applicants traverse. Amended claim 1 recites “a console to provide instructions via a link in the form of messages that include a schedule request message.” By contrast Kobayashi et al. disclose a control server that:

receives contracts of communication services, service start requests, set measurement rules, display inputs, and the like, from application programs via an application interface 604.

(Kobayashi et al., Col. 7, lines 40-44.) Kobayashi et al. is silent as to the use of a console. Further, a console and a control server are not substantively the same. (See Office Action dated August 3, 2007, pg. 5.)

As shown above, neither Chen et al., nor Kobayashi et al., teach all the limitations of amended claim 1. Accordingly, Applicants submit that amended claim 1 is allowable. As claim 2 is dependent upon amended claim 1, claim 2 is also allowable.

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. in view of Chen et al., and in further view of Borresen et al. (U.S. Patent No. 7,032,129 B1). Applicants amend so as to clarify the claims. Further, applicants respectfully traverse. As discussed above, amended claim 1, upon which claim 3 depends, recites “a console to provide instructions via a link in the form of messages that include a schedule request message.” Borresen et al. depict “Fail-over support for legacy voice mail systems in New World IP PBXs” (Borresen et al., title.), and hence is silent as to the limitation of amended claim 1. Further, as alluded to above, Kobayashi et al. is silent as to the use of a console, and as such does not teach all of the claim limitations of claim. Accordingly, Applicants submit that amended claim 1 is allowable, and as claim 3 depends upon amended claim 1, claim 3 is also allowable.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. in view of Chen et al., and in further view of Cooper et al. (U.S. Patent No. 7,221,650 B1). Applicants amend so as to clarify the claims. Further, Applicants respectfully traverse. As amended, claim 4 recites “a control unit coupled to the console, the control unit to send a request message to an Internet Protocol Private Branch Exchange (IP-PBX) based upon a schedule of the message.” Cooper et al. recite a “System and method for checking data accumulators for consistency.” (Cooper et al., title.) Cooper et al. is silent as to the limitation of amended claim 4. Further, as discussed above, Kobayashi et al. discloses a “The control server [that] receives contracts of communication services, service start requests, set measurement rules, display inputs, and the like, from application programs via an application interface 604.” (Kobayashi et al., Col. 7, 41-44.) Kobayashi et al. is silent as a request message being sent by a control unit. Further, a console and a control server are not substantively the same. (See Office Action dated August 3, 2007, pg. 7.)

As shown above, neither Kobayashi et al., Chen et al., nor Cooper et al. teaches all the limitations of amended claim 4. Accordingly, Applicants submit that amended claim 4 is allowable.

Claims 5 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. in view of Chen et al., and in further view of Clemens et al. (U.S. Published Patent Application No. 2003/0161324 A1). Applicants amend so as to clarify the claims. As amended, claim 5 depicts “a control unit to send a request message based upon a schedule of the message.” Clemens et al. recite a “System and method for transmitting and reconstructing audio or video data using intelligent sample interleaving of transmitted data requiring fewer orders of interpolation to accurately reconstruct audio or video data at the receiver in the event of data lost.” (Clemens et al., title.) Clemens et al. is silent as to the amendments made to claim 5. Further, Kobayashi et al. depict:

One or more meters 101 and a control server 102 are connected to a LAN (Local Area Network) 104, then connected to a WAN (Wide Area Network) 105 via routers 103. The control server holds control rules.

(Kobayashi et al., Col. 5, lines 43-46.). Kobayashi et al. is silent as to the control unit sending a request message based upon a schedule of the message.

As shown above, neither Kobayashi et al., Chen et al., nor Clemens et al. teaches all the limitations of amended claim 5. Accordingly, Applicants submit that amended claim 5 is allowable. As claim 6 is dependent upon amended claim 5, claim 6 is also allowable.

Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. as modified by Chen et al. and Clemens et al., as applied to amended claim 5 above and further in view of Levac et al. (U.S. Patent No. 6,034,970). Applicants amend so as to clarify the language, and also respectfully traverses. As outlined above with respect to amended claim 5, Kobayashi et al. is silent as to the control unit sending a request message based upon a schedule of the message. Claim 7 depends upon amended claim 5, and accordingly claim 7 contains a limitation not recited by Kobayashi et al. Further, according to MPEP 2143.01 § V:

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.

Levac et al. depict an “Intelligent messaging system and method for providing and updating a message using a communication device, such as a large character display.” (Levac et al., title.) It is unclear how Levac et al. depicting technology to update a “large character display” could be combined with Kobayashi et al. as modified by Chen et al. and Clemens et al. such that Levac et al. would still be satisfactory for its intended purpose.

As shown above, Kobayashi et al. does not teach all the limitations of amended claim 5, and hence dependant claim 7. Further, the combination of Levac et al. with Kobayashi et al. as modified by Chen et al. and Clemens et al. would not render Levac et al. satisfactory for its intended purpose. Accordingly, Applicants submit that claim 7 is allowable.

Claims 8 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. as modified by Chen et al., Clemens et al., and Levac et al., as applied to amended claim 5 above and further in view of Brown et al. (U.S. Patent No. 6,381,321 B1). Applicants both amend so as to clarify the claim language, and respectfully traverse. Brown et al. depict a “Telecommunication resource allocation system and method” (Brown et al, title.), and is silent as to the limitation recited in amended claim 5. This limitation of amended claim 5 including “a control unit to send a request message based upon a schedule of the message.” Further, as referenced above, Levac et al. teach an “Intelligent messaging system and method for providing and updating a message using a communication device, such as a large character display.” (Levac et al., title.) It is unclear how Levac et al. depicting technology to update a “large character display” could be combined with Kobayashi et al. as modified by Chen et al., Clemens et al. and Levac et al., and further in view of Brown et al. such that Levac et al. would still be satisfactory for its intended purpose.

The combination of Kobayashi et al. as modified by Chen et al., Clemens et al., and Levac et al., as applied to amended claim 5 and further in view of Brown et al. would not render Levac et al. satisfactory for its intended purpose. Accordingly, Applicants submit that amended claim 5 is allowable. Accordingly, Applicants submit that as amended claim 5 is allowable, claim 8 that depends upon claim 5 is also allowable. Further, claim 9, that depends upon claim 8, is also allowable.

Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. as modified by Chen et al., Clemens et al., and Levac et al., and further in view of Charcranoon (U.S. Published Patent Application No. 2004/0105391 A1). Applicants amend so as to clarify the claim language, and respectfully traverse. Charcranoon recites “Measurement architecture to obtain per-hop one-way packet loss and delay in multi-class service networks” (Charcranoon, title.) and is silent as to the limitations of amended claim 5 upon which claim 10 depends. Further, as referenced above, Levac et al. teaches an “Intelligent messaging system and method for providing and updating a message using a communication device, such as a large character display.” (Levac et al., title.) It is unclear how Levac et al. depicting technology to update a “large character display” could be combine with Kobayashi et al. as modified by Chen et al., Clemens et al., and Levac et al., and further in view of Charcranoon would still be satisfactory for its intended purpose.

The combination of Kobayashi et al. as modified by Chen et al., Clemens et al., and Levac et al., and further in view of Charcranoon, as applied to amended claim 5 would not render Levac et al. satisfactory for its intended purpose. Accordingly, Applicants submit that amended claim 5 is allowable. Accordingly, Applicants submit that amended claim 5 is allowable. As claim 10 is dependent upon amended claim 5, claim 10 is also allowable.

Claims 11 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. as modified by Chen et al., Clemens et al., Levac et al., and Charcranoon et al., and further in view of Corlett et al (U.S. Published Patent Application No. 2003/0023710 A1). Applicants amend so as to clarify to claim language, and respectfully traverse. Corlett et al.

recites a “Network metric system” (Corlett et al., title.), and is silent as to the limitations of amended claim 5 upon which claims 11 and 12 depend by way of claim 10. Additionally, as referenced above, Levac et al. teach an “Intelligent messaging system and method for providing and updating a message using a communication device, such as a large character display.” (Levac et al., title.) It is unclear how Levac et al. depicting technology to update a “large character display” could be combine with Kobayashi et al. as modified by Chen et al., Clemens et al., and Charcranoon et al., and further in view of Corlett et al. to still be satisfactory for its intended purpose.

The combination of Kobayashi et al. as modified by Chen et al., Clemens et al., and Charcranoon et al., and further in view of Corlett et al. as applied to amended claim 5 would not render Levac et al. satisfactory for its intended purpose. Accordingly, Applicants submit that amended claim 5 is allowable. Accordingly, Applicants submit that amended claim 5 is allowable. As claims 11 and 12 are dependent upon amended claim 5 by way of claim 10, claims 11 and 12 are also allowable.

Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. in view of Xu (U.S. Published Patent Application No. 2005/0068898 A1). Applicants respectfully traverse. As amended, claim 13 recites the limitation of:

a second control unit coupleable via a switch to the console, the console configured to be selectively coupled to one of the first control unit and the second control unit to perform administrative functions.

By contrast, Xu recites:

A switching topology for communicating signals in an automatic test system includes a plurality of switching circuits each for selectively passing signals or crossing signals. Switching circuits are connected together such that each node of any switching circuit connects to no more than one node of any other switching circuit. This topology offers



improved signal integrity, reduced cost, and reduced space as compared with conventional, matrix-style switching topologies.

(emphasis added) (Xu, abstract.) Xu is silent as to the use of a switch, but rather recites a “switching circuit.”

As shown above, Kobayashi et al. in view of Xu does not teach all the limitations of claim 13. Accordingly, Applicants submit that claim 13 is allowable.

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. in view of Kalyanpur et al. (U.S. Patent No. 6,359,976 B1). Applicants amend so as to clarify the claim language. Amended claim 14 recites:

a third control unit coupled to the first control unit, the first control unit configured to aggregate performance data from the second and third control units, the console coupled to the third control unit for access to the aggregated performance data, the aggregate performance data including at least one of packet type data, session data, origination data, or Internet Protocol (IP) address data.

Both Kobayashi et al. and Kalyanpur et al. are silent as to the types of aggregated performance data enumerated above.

As shown above, Kalyanpur et al. does not teach all the limitations of amended claim 14. Accordingly, Applicants submit that amended claim 14 is allowable.

Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Duxbury et al. (U.S. Patent No. 5,604,896) in view of Puppa et al. (U.S. Patent No. 5,778,003). Applicants respectfully traverse. Original claim 18 recites “rebooting an access card if the status of the access node is an error.” By contrast, Duxbury is silent as to the use of an “access card.”

As shown above, neither Duxbury et al., nor Puppa et al. teaches all the limitations of claim 18. Accordingly, Applicants submit that claim 18 is allowable.

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Duxbury in view of Puppa et al., and further in view of Corlett et al. Applicants respectfully traverse. For the reasons outlined above with respect to claim 18, claim 19, which depends upon claim 18, is not rendered obvious by the combination of Puppa et al., and further in view of Corlett et al. Specifically, Duxbury is silent as to the use of an “access card.” As claim 19 is dependent upon claim 18, which as stated above is allowable, claim 19 is also allowable.

Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Liu et al. in view of Chen et al. Applicants respectfully amend so as to clarify the claim language. Amended claim 20, upon which claim 22 depends:

monitoring a VoIP system, the VoIP system including a console connected to a control unit, the control unit connected to an Internet Protocol-Private Branch Exchange (IP-PBX) with an ethernet connection and an asynchronous connection, the method;

Liu et al. recite a “Method for automatically saving in-process programs before shutdown” (Liu et al., title.), while Chen et al. recite a “Method for handling incoming calls directed to a virtual communication service subscriber via a shared line system” (Chen et al., title.). Chen et al., and Liu et al. are silent as to a VoIP system as outlined in amended claim 20, upon which claim 22 depends.

As shown above, Liu et al. in view of Chen et al. does not teach all the limitations of amended claim 20. Accordingly, Applicants submit that amended claim 20 is allowable. As claim 22 is dependent upon amended claim 20, claim 22 is also allowable.

Claims 24-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. in view of Chen et al., and further in view of LeBlanc et al. (U.S. Patent No.

5,508,707). Applicants respectfully traverse. Claim 24, upon which claim 25 depends, recites an Internet Protocol (IP)-Private Branch Exchange (PBX) (collectively IP-PBX). LeBlanc et al. is silent as to the use of an IP in conjunction with a PBX.

As shown above, Kobayashi et al. in view of Chen et al., and further in view of LeBlanc et al. does not teach all the limitations of claim 24. Accordingly, Applicants submit that claim 24 is allowable. As claim 25 is dependent upon claim 24, claim 25 is also allowable.

Claims 26-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobayashi et al. in view of Chen et al., and further in view of LeBlanc et al. Applicants amend so as to clarify the claim language. Amended claim 26, upon which claim 27 depends, recites:

enabling E-9-1-1 in a VoIP network, the VoIP network including a console connected to a control unit, the control unit connected to an Internet Protocol-Private Branch Exchange (IP-PBX) with an ethernet connection and an asynchronous connection;

Kobayashi et al. in view of Chen et al., and further in view of LeBlanc et al. are silent as to a VoIP network as outlined in amended claim 26, upon which claim 27 depends.

As shown above, Kobayashi et al. in view of Chen et al., and further in view of LeBlanc et al. does not teach all the limitations of amended claim 26. Accordingly, Applicants submit that amended claim 26 is allowable. As claim 27 is dependent upon amended claim 26, claim 27 is also allowable.

Claim 28 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Corlett et al. in view of Duxbury et al., Lui et al., and LeBlanc et al. Applicants amend so as to clarify the claim language. Amended claim 28 recites:

controlling a VoIP network including a console connected to a control unit, the control unit connected to an Internet Protocol-Private Branch Exchange (IP-PBX) with an ethernet connection and an asynchronous connection;

Corlett et al. in view of Duxbury et al., Lui et al., and LeBlanc et al. are silent as to a VoIP network as outlined in amended claim 28. As shown above, Nagaoka et al. does not teach all the limitations of claim 9. Accordingly, Applicants submit that amended claim 28 is allowable.

In view of the above, Applicants thus respectfully request that the Examiner withdraw these rejections, and issue a notice of allowance at his earliest convenience.

*Reservation of Rights*

In the interest of clarity and brevity, Applicants may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicants respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4057 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
408-278-4057

Date December 3, 2007

By

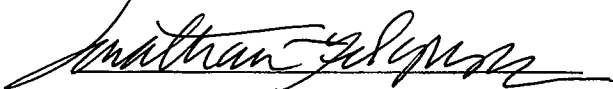


Theodore C. McCullough  
Reg. No. 56,231

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 3<sup>rd</sup> day of December 2007.

Jonathan Ferguson

Name



Signature